

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 04-0002
Corporate Income Tax
For the Tax Year Ended January 29, 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

1. Gross Income Tax- Combined Return

Authority: IC 6-8.1-5-1 (b), IC 6-2.1-2-2, IC 6-2.1-5-2, IC 6-2.1-5-5(b) and (d).

The taxpayer protests the department's combination of its income tax returns with the income tax returns of related corporations.

STATEMENT OF FACTS

The taxpayer is a holding corporation. The Indiana Department of Revenue (department) audited the taxpayer and its related corporations for the tax year ended January 29, 2000. During the course of the audit, the department determined that the taxpayer and its related corporations' individual corporate tax returns did not properly reflect the entities' income. Therefore, the department combined the returns for gross income tax purposes. The combination of the returns resulted in a gross income tax liability for the taxpayer. The department issued an assessment for the gross income tax, interest, and penalty. The taxpayer protested the assessment. A hearing was held and this Letter of Findings results.

1. Gross Income Tax-Combined Return

DISCUSSION

All tax assessments are presumed to be accurate. The taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

Indiana imposes a gross income tax on Indiana gross income of nonresident businesses. IC 6-2.1-2-2. All taxpayers are required to file annual returns pursuant to IC 6-2.1-5-2. Taxpayers are allowed to elect to file a consolidated return pursuant to the provisions of IC 6-2.1-5-5(b) and (d) as follows:

(b) Corporate members of an affiliated group that are incorporated in the state of Indiana or are authorized to do business in the state of Indiana may file a consolidated gross income tax return.

(d) An affiliated group must elect at the time it files its first annual return whether or not it will file a consolidated gross income tax return or whether each corporate member of the group will file a separate gross income tax return. After this election is made, the group must file gross income tax returns in the same manner as the group's first annual return is filed, unless the department allows the group to change the manner in which it files gross income tax returns.

Affiliated corporations are allowed to choose to file gross income tax returns on a consolidated basis. Indiana law does not allow corporations to report their Indiana gross income on a combined basis. Similarly, the department may not require corporations to report their Indiana gross income on a combined basis.

FINDING

The taxpayer's protest is sustained.

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